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SENATE BILL NO. 2922

Originated in Senate

Liz Welch

Secretary

SENATE BILL NO. 2922

AN ACT TO AMEND SECTION 27-7-22.31, MISSISSIPPI CODE OF 1972, TO WHICH AUTHORIZES AN INCOME TAX CREDIT FOR COSTS AND EXPENSES INCURRED FOR THE REHABILITATION OF CERTAIN HISTORIC STRUCTURES, TO PROVIDE THAT THE CREDIT SHALL NOT APPLY TO SINGLE-FAMILY DWELLING UNLESS A CERTIFICATE EVIDENCING THE ELIGIBLE CREDIT HAS BEEN ISSUED TO THE TAXPAYER BY THE DEPARTMENT OF ARCHIVES AND HISTORY THAT APPLIES TO SUCH HOME PRIOR TO JULY 1, 2016, OR THE DWELLING IS LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES; TO INCREASE THE MAXIMUM AGGREGATE AMOUNT OF TAX CREDITS THAT MAY BE AWARDED; TO LIMIT THE AMOUNT OF CREDITS THAT MAY BE AWARDED IN ANY ONE STATE FISCAL YEAR; TO GRANT PRIORITY FOR THE TAX CREDIT TO TAXPAYERS WHO WERE ISSUED A CERTIFICATE EVIDENCING THE ELIGIBLE CREDIT PRIOR TO JULY 1, 2016; TO PROVIDE THAT THE TAX CREDIT SHALL APPLY TO TAXPAYERS WHO HAVE BEEN ISSUED A CERTIFICATE EVIDENCING THE ELIGIBLE CREDIT BEFORE DECEMBER 31, 2020, OR WHO, BEFORE DECEMBER 31, 2020, HAVE RECEIVED A DETERMINATION IN WRITING FROM THE MISSISSIPPI DEPARTMENT OF ARCHIVES AND HISTORY THAT THE REHABILITATION IS CONSISTENT WITH THE HISTORIC CHARACTER OF THE PROPERTY AND THAT THE PROPERTY MEETS THE UNITED STATES SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION AND WHO ARE ISSUED A CERTIFICATE EVIDENCING THE ELIGIBLE CREDIT ON OR AFTER DECEMBER 31, 2020; TO AMEND SECTION 27-31-104, MISSISSIPPI CODE OF 1972, AS AMENDED BY HOUSE BILL NO. 1, 2016 FIRST EXTRAORDINARY SESSION, TO PROVIDE THAT A FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT MAY EXTEND FOR UP TO 20 YEARS FROM THE COMMENCEMENT OF THE FEE-IN-LIEU PERIOD GRANTED THEREIN, HOWEVER, NO PARTICULAR PARCEL OF LAND, REAL PROPERTY IMPROVEMENT OR ITEM OF PERSONAL PROPERTY SHALL BE SUBJECT TO A FEE-IN-LIEU OF AD VALOREM TAXES FOR A DURATION OF MORE THAN TEN YEARS; TO AMEND SECTION 57-26-1, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF THE TERMS "APPROVED PROJECT

COSTS" AND "TOURISM PROJECT" UNDER THE TOURISM PROJECT SALES TAX INCENTIVE PROGRAM; TO AMEND SECTION 57-26-5, MISSISSIPPI CODE OF 1972, TO EXTEND UNTIL JULY 1, 2020, THE AUTHORITY OF THE MISSISSIPPI DEVELOPMENT AUTHORITY TO ISSUE CERTIFICATES DESIGNATING AN ENTITY AS AN APPROVED PARTICIPANT IN THE TOURISM PROJECT SALES TAX INCENTIVE PROGRAM; TO AMEND SECTION 57-89-7, MISSISSIPPI CODE OF 1972, TO EXTEND UNTIL JULY 1, 2017, THE AUTHORITY OF THE DEPARTMENT OF REVENUE TO APPROVE APPLICATIONS FOR A REBATE UNDER THE MISSISSIPPI MOTION PICTURE INCENTIVE ACT; TO PROVIDE THAT RAILROAD PROPERTIES AND FACILITIES OWNED BY A LIMITED LIABILITY COMPANY OR OTHER ENTITY THAT IS WHOLLY OWNED BY A RAILROAD AUTHORITY CREATED UNDER THE RAILROAD AUTHORITIES LAW SHALL BE EXEMPT FROM AD VALOREM TAXATION TO THE SAME EXTENT AS PROPERTY OWNED BY SUCH RAILROAD AUTHORITY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-7-22.31, Mississippi Code of 1972, is amended as follows:

27-7-22.31. (1) As used in this section:

(a) "Certified historic structure" means a property located in Mississippi that has been:

(i) Listed individually on the National Register of Historic Places; or

(ii) Determined eligible for the National Register of Historic Places by the Secretary of the United States Department of the Interior and will be listed within thirty (30) months of claiming the credit authorized by this section; or

(iii) Property designated a Mississippi Landmark by the Department of Archives and History pursuant to Section 39-7-3 et seq.

(b) "Eligible property" means property located in Mississippi and offered or used for residential or business

purposes; however, the term "eligible property" shall not include a single-family dwelling unless:

(i) A certificate evidencing the eligible credit has been issued to the taxpayer by the department prior to July 1, 2016, that applies to such dwelling; or

(ii) The dwelling is designated as a National Historic Landmark under the National Historic Landmarks Program.

(c) "Structure in a certified historic district" means a structure (and its structural components) located in Mississippi which:

(i) Is listed in the National Register of Historic Places; or

(ii) Has been determined eligible for the National Register of Historic Places by the Secretary of the United States Department of the Interior and will be listed within thirty (30) months of claiming the credit authorized by this section; or

(iii) Is located in a registered historic district listed on the National Register of Historic Places or located in a potential district that has been determined eligible for the National Register of Historic Places by the Secretary of the United States Department of the Interior and will be listed within thirty (30) months of claiming the credit authorized by this section, and is certified by the Secretary of the United States Department of the Interior as being of historic significance to the district; or

(iv) Is certified by the Mississippi Department of Archives and History as contributing to the historic significance of:

1. A certified historic district listed on the National Register of Historic Places; or

2. A potential district that has been determined eligible for the National Register of Historic Places by the Secretary of the United States Department of the Interior and will be listed within thirty (30) months of claiming the credit authorized by this section; or

3. A local district that has been certified by the United States Department of the Interior.

(d) "Department" means the Department of Archives and History.

(2) Any taxpayer incurring costs and expenses for the rehabilitation of eligible property, which is a certified historic structure or a structure in a certified historic district, shall be entitled to a credit against the taxes imposed pursuant to this chapter in an amount equal to twenty-five percent (25%) of the total costs and expenses of rehabilitation incurred after January 1, 2006, which shall include, but not be limited to, qualified rehabilitation expenditures as defined under Section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, and the related regulations thereunder:

(a) If the costs and expenses associated with rehabilitation exceed:

(i) Five Thousand Dollars (\$5,000.00) in the case of an owner-occupied dwelling; or

(ii) Fifty percent (50%) of the total basis in the property in the case of all other properties; and

(b) The rehabilitation is consistent with the standards of the Secretary of the United States Department of the Interior as determined by the department.

(3) Any taxpayer eligible for the credit authorized by this section may claim the credit in phases if:

(a) There is a written set of architectural plans and specifications for all phases of the rehabilitation (written plans outlining and describing all phases of the rehabilitation shall be accepted as written plans and specifications);

(b) The written set of architectural plans and specifications are completed before the physical work on the rehabilitation begins; and

(c) It can reasonably be expected that all phases of the rehabilitation will be completed.

(4) (a) (i) If the amount of the tax credit established by this section exceeds the total state income tax liability for the year in which the rehabilitated property is placed in service, the amount that exceeds the total state income tax liability may be carried forward for the ten (10) succeeding tax years.

(ii) If the amount of the tax credit established by this section exceeds Two Hundred Fifty Thousand Dollars (\$250,000.00), the taxpayer may elect to claim a refund in the amount of seventy-five percent (75%) of the excess credit in lieu of the ten-year carryforward. The election must be made in the year in which the rehabilitated property is placed in service. Refunds will be paid in equal installments over a two-year period and shall be made from current collections.

(iii) Refund requests shall be submitted to the Department of Revenue on forms prescribed by the department. Refunds shall be made from current tax collections.

(b) Not-for-profit entities, including, but not limited to, nonprofit corporations organized under Section 79-11-101 et seq. shall be ineligible for the credit authorized by this section. Credits granted to a partnership, a limited liability company taxed as a partnership or multiple owners of property shall be passed through to the partners, members or owners on a pro rata basis or pursuant to an executed agreement among the partners, members or owners documenting an alternative distribution method. Partners, members or other owners of a pass-through entity are not eligible to elect a refund of excess credit in lieu of a carryforward of the credit. However, a partnership or limited liability company taxed as a partnership may elect to claim a refund of excess credit at the entity level on a form prescribed by the Department of Revenue. Additionally,

excess tax credits that are attributable to rehabilitated property that was placed in service by a pass-through entity prior to January 1, 2011, and that have previously been allocated to and are held by another pass-through entity prior to January 1, 2011, may be refunded to such other pass-through entity.

(5) (a) To claim the credit authorized pursuant to this section, the taxpayer shall apply to the department which shall determine the amount of eligible rehabilitation costs and expenses and whether the rehabilitation is consistent with the standards of the Secretary of the United States Department of the Interior. The department shall issue a certificate evidencing the eligible credit if the taxpayer is found to be eligible for the tax credit. The taxpayer shall attach the certificate to all income tax returns on which the credit is claimed. The department shall not issue certificates evidencing the eligible credit which, when combined with certificates of eligible credits issued prior to July 1, 2016, will result in credits being awarded in excess of Twelve Million Dollars (\$12,000,000.00) in any one (1) state fiscal year.

(b) The aggregate amount of tax credits that may be awarded under this section shall not exceed * * * One Hundred Twenty Million Dollars (\$120,000,000.00) and not more than Twelve Million Dollars (\$12,000,000.00) may be awarded in any one (1) state fiscal year. A taxpayer who was issued a certificate evidencing the eligible credit by the department prior to July 1,

2016, but who was unable to be awarded the credit due to the limit on the aggregate amount of credits authorized under this section prior to July 1, 2016:

(i) May be awarded the credit so long as the award does not cause the aggregate amount of tax credits awarded to exceed the amounts authorized in this paragraph; and

(ii) Shall be given priority for tax credits awarded after July 1, 2016.

(6) (a) The credit received by a taxpayer pursuant to this section is subject to recapture if:

(i) The property is one that has been determined eligible for the National Register of Historic Places but is not listed on the National Register of Historic Places within thirty (30) months of claiming the credit authorized by this section;

(ii) The potential district in which the property is located is not listed on the National Register of Historic Places within thirty (30) months of claiming the credit authorized by this section; or

(iii) The rehabilitation of the property for which the credit was granted is abandoned.

(b) The taxpayer shall notify the department and the Department of Revenue if any of the situations that subject the credit to recapture occur.

(7) (a) The board of trustees of the department shall establish fees to be charged for the services performed by the

department under this section and shall publish the fee schedule. The fees contained in the schedule shall be in amounts reasonably calculated to recover the costs incurred by the department for the administration of this section. Any taxpayer desiring to participate in the tax credits authorized by this section shall pay the appropriate fee as contained in the fee schedule to the department, which shall be used by the department, without appropriation, to offset the administrative costs of the department associated with its duties under this section.

(b) There is hereby created within the State Treasury a special fund into which shall be deposited all the fees collected by the department pursuant to this section. Money deposited into the fund shall not lapse at the end of any fiscal year and investment earnings on the proceeds in such special fund shall be deposited into such fund. Money from the fund shall be disbursed upon warrants issued by the State Fiscal Officer upon requisitions signed by the executive director of the department to assist the department in carrying out its duties under this section.

(8) This section shall only apply to taxpayers:

(a) Who have been issued a certificate evidencing the eligible credit before December 31, * * * 2020; or

(b) Who, before December 31, * * * 2020, have received a determination in writing from the Mississippi Department of Archives and History, in accordance with the department's Historic Preservation Certificate Application, Part 2, that the

rehabilitation is consistent with the historic character of the property and that the property meets the United States Secretary of the Interior's Standards for Rehabilitation, or will meet the standards if certain specified conditions are met, and, who are issued a certificate evidencing the eligible credit on or after December 31, * * * 2020.

SECTION 2. Section 27-31-104, Mississippi Code of 1972, as amended by House Bill No. 1, 2016 First Extraordinary Session, is amended as follows:

[Through June 30, 2022, this section shall read as follows:]

27-31-104. (1) County boards of supervisors and municipal authorities are each hereby authorized and empowered to enter into an agreement with an enterprise granting, and pursuant to such agreement grant a fee-in-lieu of ad valorem taxes, including ad valorem taxes levied for school purposes, for projects totaling over One Hundred Million Dollars (\$100,000,000.00). In addition to those new enterprises enumerated in Section 27-31-101, Mississippi Code of 1972, the term "projects," as used in this section, shall include:

(a) A private company (as such term is defined in Section 57-61-5, Mississippi Code of 1972) having a minimum capital investment of One Hundred Million Dollars (\$100,000,000.00); or

(b) A qualified business (as such term is defined in Section 57-117-3) meeting minimum criteria established by the Mississippi Development Authority.

(2) A county board of supervisors may enter into a fee-in-lieu agreement on behalf of the county and any county school district, and a municipality may enter into such a fee-in-lieu agreement on behalf of the municipality and any municipal school district located in the municipality; however, if the project is located outside the limits of a municipality but within the boundaries of the municipal school district, then the county board of supervisors may enter into such a fee-in-lieu agreement on behalf of the school district granting a fee-in-lieu of ad valorem taxes for school district purposes.

(3) Any grant of a fee-in-lieu of ad valorem taxes shall be evidenced by a written agreement negotiated by the enterprise and the county board of supervisors and/or municipal authority, as the case may be, and given final approval by the Mississippi Development Authority as satisfying the requirements of this section.

(4) The minimum sum allowable as a fee-in-lieu shall not be less than one-third (1/3) of the ad valorem levy, including ad valorem taxes for school district purposes, and except as otherwise provided, the sum allowed shall be apportioned between the county or municipality, as appropriate, and the school districts in such amounts as may be determined by the county board

of supervisors or municipal governing authority, as the case may be, however, except as otherwise provided in this section, from the sum allowed the apportionment to school districts shall not be less than the school districts' pro rata share based upon the proportion that the millage imposed for the school districts by the appropriate levying authority bears to the millage imposed by such levying authority for all other county or municipal purposes. Any fee-in-lieu agreement entered into * * * under this section shall become a binding obligation of the parties to the agreement, be effective upon its execution by the parties and approval by the Mississippi Development Authority and * * *, except as otherwise provided in Section 17-25-23 or Section 57-75-33, or any other provision of law, continue in effect for a period not to exceed twenty (20) years commencing on the date that the fee-in-lieu granted thereunder begins in accordance with the agreement; however, no particular parcel of land, real property improvement or item of personal property shall be subject to a fee-in-lieu for a duration of more than ten (10) years. Any such agreement shall be binding, according to its terms, on future boards of supervisors of the county and/or governing authorities of a municipality, as the case may be, for the duration of the agreement.

(5) The fee-in-lieu may be a stated fraction or percentage of the ad valorem taxes otherwise payable or a stated dollar amount. If the fee is a fraction or percentage of the ad valorem

tax levy, it shall be annually computed on all ad valorem taxes otherwise payable, including school taxes, as the same may vary from year to year based upon changes in the millage rate or assessed value and shall not be less than one-third (1/3) of that amount. If the fee is a stated dollar amount, said amount shall be the higher of the sum provided for fixed payment or one-third (1/3) of the total of all ad valorem taxes otherwise payable as annually determined during each year of the fee-in-lieu.

(6) Notwithstanding Section 27-31-111, the parties to a fee-in-lieu may agree on terms and conditions providing for the reduction, suspension, termination or reinstatement of a fee-in-lieu agreement or any fee-in-lieu period granted thereunder upon the cessation of operations by project for twelve (12) or more consecutive months or due to other conditions set forth in the agreement.

(7) For a project as defined in Section 57-75-5(f)(xxi) and located in a county that is a member of a regional economic development alliance created under Section 57-64-1 et seq., the members of the regional economic development alliance may divide the sum allowed as a fee-in-lieu in a manner as determined by the alliance agreement, and the boards of supervisors of the member counties may then apportion the sum allowed between school district purposes and all other county purposes.

(8) For a project as defined in Section 57-75-5(f)(xxvi), the board of supervisors of the county in which the project is

located may negotiate with the school district in which the project is located and apportion to the school district an amount of the fee-in-lieu that is agreed upon in the negotiations different than the amount provided for in subsection (3) of this section.

(9) For a project as defined in Section 57-75-5(f)(xxviii), the annual amount of the fee-in-lieu apportioned to the county shall not be less than the amount necessary to pay the debt service on bonds issued by the county pursuant to Section 57-75-37(3)(c).

[From and after July 1, 2022, this section shall read as follows:]

27-31-104. (1) County boards of supervisors and municipal authorities are each hereby authorized and empowered to enter into an agreement with an enterprise granting, and pursuant to such agreement grant a fee-in-lieu of ad valorem taxes, including ad valorem taxes levied for school purposes, for projects totaling over One Hundred Million Dollars (\$100,000,000.00). In addition to those new enterprises enumerated in Section 27-31-101, Mississippi Code of 1972, the term "projects," as used in this section, shall include a private company (as such term is defined in Section 57-61-5, Mississippi Code of 1972) having a minimum capital investment of One Hundred Million Dollars (\$100,000,000.00).

(2) A county board of supervisors may enter into a fee-in-lieu agreement on behalf of the county and any county school district, and a municipality may enter into such a fee-in-lieu agreement on behalf of the municipality and any municipal school district located in the municipality; however, if the project is located outside the limits of a municipality but within the boundaries of the municipal school district, then the county board of supervisors may enter into such a fee-in-lieu agreement on behalf of the school district granting a fee-in-lieu of ad valorem taxes for school district purposes.

(3) Any grant of a fee-in-lieu of ad valorem taxes shall be evidenced by a written agreement negotiated by the enterprise and the county board of supervisors and/or municipal authority, as the case may be, and given final approval by the Mississippi Development Authority as satisfying the requirements of this section.

(4) The minimum sum allowable as a fee-in-lieu shall not be less than one-third (1/3) of the ad valorem levy, including ad valorem taxes for school district purposes, and except as otherwise provided, the sum allowed shall be apportioned between the county or municipality, as appropriate, and the school districts in such amounts as may be determined by the county board of supervisors or municipal governing authority, as the case may be, however, except as otherwise provided in this section, from the sum allowed the apportionment to school districts shall not be

less than the school districts' pro rata share based upon the proportion that the millage imposed for the school districts by the appropriate levying authority bears to the millage imposed by such levying authority for all other county or municipal purposes. Any fee-in-lieu agreement entered into * * * under this section shall become a binding obligation of the parties to the agreement, be effective upon its execution by the parties and approval by the Mississippi Development Authority and * * *, except as otherwise provided in Section 17-25-23 or Section 57-75-33, or any other provision of law, continue in effect for a period not to exceed twenty (20) years commencing on the date that the fee-in-lieu granted thereunder begins in accordance with the agreement; however, no particular parcel of land, real property improvement or item of personal property shall be subject to a fee-in-lieu for a duration of more than ten (10) years. Any such agreement shall be binding, according to its terms, on future boards of supervisors of the county and/or governing authorities of a municipality, as the case may be, for the duration of the agreement.

(5) The fee-in-lieu may be a stated fraction or percentage of the ad valorem taxes otherwise payable or a stated dollar amount. If the fee is a fraction or percentage of the ad valorem tax levy, it shall be annually computed on all ad valorem taxes otherwise payable, including school taxes, as the same may vary from year to year based upon changes in the millage rate or

assessed value and shall not be less than one-third (1/3) of that amount. If the fee is a stated dollar amount, said amount shall be the higher of the sum provided for fixed payment or one-third (1/3) of the total of all ad valorem taxes otherwise payable as annually determined during each year of the fee-in-lieu.

(6) Notwithstanding Section 27-31-111, the parties to a fee-in-lieu may agree on terms and conditions providing for the reduction, suspension, termination or reinstatement of a fee-in-lieu agreement or any fee-in-lieu period granted thereunder upon the cessation of operations by project for twelve (12) or more consecutive months or due to other conditions set forth in the agreement.

(7) For a project as defined in Section 57-75-5(f)(xxi) and located in a county that is a member of a regional economic development alliance created under Section 57-64-1 et seq., the members of the regional economic development alliance may divide the sum allowed as a fee-in-lieu in a manner as determined by the alliance agreement, and the boards of supervisors of the member counties may then apportion the sum allowed between school district purposes and all other county purposes.

(8) For a project as defined in Section 57-75-5(f)(xxvi), the board of supervisors of the county in which the project is located may negotiate with the school district in which the project is located and apportion to the school district an amount of the fee-in-lieu that is agreed upon in the negotiations

different than the amount provided for in subsection (3) of this section.

(9) For a project as defined in Section 57-75-5(f) (xxviii), the annual amount of the fee-in-lieu apportioned to the county shall not be less than the amount necessary to pay the annual debt service on bonds issued by the county pursuant to Section 57-75-37(3) (c).

SECTION 3. Section 57-26-1, Mississippi Code of 1972, is amended as follows:

57-26-1. As used in Sections 57-26-1 through 57-26-5, the following terms and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Approved project costs" means actual costs incurred by an approved participant for land acquisition, construction, engineering, design and other costs approved by the Mississippi Development Authority relating to a tourism project; however, for the purposes of a tourism project described in paragraph (d) (iv) of this section, such costs include only those incurred after January 1, 2011, relating to the hotel portion of the project consisting of facilities used for lodging and common areas in that portion of the project. All costs must be verified by an independent third party approved by the MDA. An approved participant shall pay the costs for the third-party verification of costs. Approved project costs may not increase regardless of the actual costs incurred by the project.

(b) "Approved participant" means a person, corporation or other entity issued a certificate by the Mississippi Development Authority under Section 57-26-5.

(c) "MDA" means the Mississippi Development Authority.

(d) "Tourism project" shall include any of the following as may be approved by the MDA:

(i) Theme parks, water parks, entertainment parks or outdoor adventure parks, cultural or historical interpretive educational centers or museums, motor speedways, indoor or outdoor entertainment centers or complexes, convention centers, professional sports facilities, spas, attractions created around a natural phenomenon or scenic landscape and marinas open to the public with a minimum private investment of not less than Ten Million Dollars (\$10,000,000.00);

(ii) A hotel with a minimum private investment of Forty Million Dollars (\$40,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority, and having a minimum private investment of One Hundred Fifty Thousand Dollars (\$150,000.00) per guest room which amount shall be included within the minimum private investment of Forty Million Dollars (\$40,000,000.00);

(iii) A public golf course with a minimum private investment of Ten Million Dollars (\$10,000,000.00);

(iv) A full service hotel with a minimum private investment of Fifteen Million Dollars (\$15,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority, and having a minimum private investment of Two Hundred Thousand Dollars (\$200,000.00) per guest room or suite which amount shall be included within the minimum private investment of Fifteen Million Dollars (\$15,000,000.00), a minimum of twenty-five (25) guest rooms or suites, and guest amenities such as restaurants, spas and other amenities as determined by the Mississippi Development Authority; however, in a county in which the Grammy Museum Mississippi or the Mississippi Arts and Entertainment Center is located, the minimum private investment per guest room or suite shall be One Hundred Fifty Thousand Dollars (\$150,000.00) which amount shall be included within the minimum private investment of Fifteen Million Dollars (\$15,000,000.00);

(v) A tourism attraction located within an "entertainment district" as defined in Section 17-29-3 that is open to the public, has seating to accommodate at least forty (40) persons, is open at least five (5) days per week from at least 6:00 p.m. until midnight, serves food and beverages, and provides live entertainment at least three (3) nights per week;

(vi) A cultural retail attraction;

(vii) A tourism attraction located within a historic district where the district is listed in the National Register of Historic Places, where the tourism attraction is open to the public, has seating to accommodate at least forty (40) persons, is open at least five (5) days per week from at least 6:00 p.m. until midnight, serves food and beverages, and provides live entertainment at least three (3) nights per week.

The term "tourism project" does not include any licensed gaming establishment owned, leased or controlled by a business, corporation or entity having a gaming license issued under Section 75-76-1 et seq.; however, the term "tourism project" may include a project described in this paragraph (d) that is owned, leased or controlled by such a business, corporation or entity or in which the business, corporation or entity has a direct or indirect financial interest if the project is in excess of development that the State Gaming Commission requires for the issuance or renewal of a gaming license and is not part of a licensed gaming establishment in which gaming activities are conducted.

The term "tourism project" does not include any facility within the project whose primary business is retail sales or any expansions of existing projects; however, pro shops, souvenir shops, gift shops, concessions and similar retail activities, and cultural retail attractions may be included within the definition of the term "tourism project." In addition, retail activities, regardless of whether the primary business is retail sales, that

are part of a resort development may be included within the definition of "tourism project."

(e) "Resort development" means a travel destination development with a minimum private investment of One Hundred Million Dollars (\$100,000,000.00) and which consists of (i) a hotel with a minimum of two hundred (200) guest rooms or suites and having a minimum private investment of Two Hundred Thousand Dollars (\$200,000.00) per guest room or suite, and (ii) guest amenities such as restaurants, golf courses, spas, fitness facilities, entertainment activities and other amenities as determined by the MDA. Not more than an amount equal to forty percent (40%) of the private investment required by this paragraph may be expended on facilities to house retail activity.

(f) "Cultural retail attraction" means a project which combines destination shopping with cultural or historical interpretive elements specific to Mississippi with a minimum private investment of Fifty Million Dollars (\$50,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority and which:

(i) Is located in a qualified resort area as defined in Section 67-1-5;

(ii) Is a part of a master-planned development with a total investment of not less than One Hundred Million Dollars (\$100,000,000.00) in land, buildings, architecture,

engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority;

(iii) Has a minimum of fifty (50) retail tenants with a minimum of three hundred thousand (300,000) square feet of heated and cooled space; and

(iv) Has a minimum investment of One Million Dollars (\$1,000,000.00) in one or more of the following:

1. Art created by Mississippi artists or portraying themes specific to Mississippi;
2. Memorabilia, signage or historical markers which serve to promote the State of Mississippi;
3. Audio/visual equipment used to showcase Mississippi artists;
4. A minimum of one thousand two hundred and fifty (1,250) square feet of heated and cooled space available to the Mississippi Development Authority or its assignee for a period of not less than ten (10) years.

(g) "Retail activity" means businesses whose inventory consists primarily of upscale name brands or their equivalent as determined by the MDA.

(h) "State" means the State of Mississippi.

SECTION 4. Section 57-26-5, Mississippi Code of 1972, is amended as follows:

57-26-5. (1) The MDA shall develop, implement and administer the incentive program authorized in Sections 57-26-1 through 57-26-5 and shall promulgate rules and regulations necessary for the development, implementation and administration of such program.

(2) A person, corporation or other entity desiring to participate in the incentive program authorized in Sections 57-26-1 through 57-26-5 must submit an application and an application fee in the amount of Five Thousand Dollars (\$5,000.00) to the MDA. Such application must contain (a) plans for the proposed tourism project; (b) a detailed description of the proposed tourism project; (c) the method of financing the proposed tourism project and the terms of such financing; (d) an independent study that identifies the number of out-of-state visitors anticipated to visit the project and the ratio of out-of-state visitors to in-state visitors; and (e) any other information required by the MDA. The Executive Director of the MDA shall review the application and determine if it qualifies as a tourism project under this section and under the rules and regulations promulgated pursuant to this section. If the executive director determines the proposed tourism project qualifies as a tourism project under this section and under the rules and regulations promulgated pursuant to this section, he shall issue a certificate to the person, corporation or other entity designating such person, corporation or other entity as an

approved participant and authorizing the approved participant to participate in the incentive program provided for in Sections 57-26-1 through 57-26-5. No certificate designating an entity as an approved participant and authorizing the approved participant to participate in the incentive program shall be issued from and after July 1, 2014, for tourism projects that are cultural retail attractions, or from and after July 1, * * * 2020, for other tourism projects.

(3) The MDA shall cause a cost benefit analysis of the tourism project to be performed by a state institution of higher learning, the university research center or some other entity approved by the MDA.

SECTION 5. Section 57-89-7, Mississippi Code of 1972, is amended as follows:

57-89-7. (1) (a) A motion picture production company that expends at least Fifty Thousand Dollars (\$50,000.00) in base investment, payroll and/or fringes, in the state shall be entitled to a rebate of a portion of the base investment made by the motion picture production company. Subject to the provisions of this section, the amount of the rebate shall be equal to twenty-five percent (25%) of the base investment made by the motion picture production company.

(b) In addition to the rebates authorized under paragraphs (a), (c) and (d) of this subsection, a motion picture production company may receive a rebate equal to twenty-five

percent (25%) of payroll and fringes paid for any employee who is not a resident and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968. However, if the payroll and fringes paid for an employee exceeds Five Million Dollars (\$5,000,000.00), then the rebate is authorized only for the first Five Million Dollars (\$5,000,000.00) of such payroll and fringes.

(c) In addition to the rebates authorized under paragraphs (a), (b) and (d) of this subsection, a motion picture production company may receive a rebate equal to thirty percent (30%) of payroll and fringes paid for any employee who is a resident and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968. However, if the payroll and fringes paid for an employee exceeds Five Million Dollars (\$5,000,000.00), then the rebate is authorized only for the first Five Million Dollars (\$5,000,000.00) of such payroll and fringes.

(d) In addition to the rebates authorized in paragraphs (a), (b) and (c) of this subsection, a motion picture production company may receive an additional rebate equal to five percent (5%) of the payroll and fringes paid for any employee who is an honorably discharged veteran of the United States Armed Forces and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968.

(e) If a motion picture has physical production activities and/or post-production activities both inside and outside the state, then the motion picture production company

shall be required to provide an itemized accounting for each employee regarding such activities inside and outside the state for the purposes of proration of eligible payroll based on the percentage of activities performed in the state.

(f) The total amount of rebates authorized for a motion picture project shall not exceed Ten Million Dollars (\$10,000,000.00) in the aggregate.

(g) The total amount of rebates authorized in any fiscal year shall not exceed Twenty Million Dollars (\$20,000,000.00) in the aggregate.

(2) A motion picture production company desiring a rebate under this section must submit a rebate request to the Department of Revenue upon completion of the project. The request must include a detailed accounting of the base investment made by the motion picture production company and any other information required by the Department of Revenue. Rebates made by the Department of Revenue under this section shall be made from current income tax collections. The Department of Revenue shall not approve any application for a rebate under subsection (1)(b) of this section after July 1, * * * 2017.

(3) The Department of Revenue shall have all powers necessary to implement and administer the provisions of this section, and the Department of Revenue shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

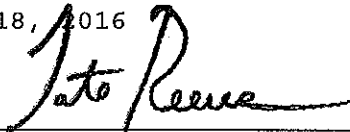
(4) The State Auditor may conduct performance and compliance audits under this chapter according to Section 7-7-211(o) and may bill the oversight agency.

SECTION 6. All railroad properties and facilities in this state owned by a limited liability company or other entity that is wholly owned by a railroad authority created under Section 19-29-1 et seq., shall be exempt from ad valorem taxation to the same extent as property belonging to such a railroad authority. For the purposes of this section, the term "railroad properties and facilities" means and has the same definition as that term has in Section 19-29-5.

SECTION 7. This act shall take effect and be in force from and after July 1, 2016.

PASSED BY THE SENATE

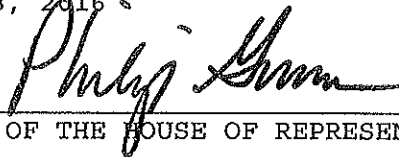
April 18, 2016



PRESIDENT OF THE SENATE

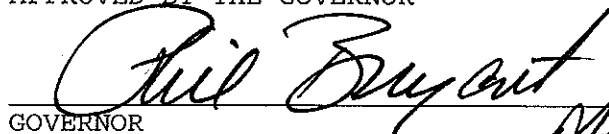
PASSED BY THE HOUSE OF REPRESENTATIVES

April 18, 2016



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

May 12, 2016
9:01 am